

Charnwood Borough Council

Tenancy Strategy 2012 - 2017



7th June 2012

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Introduction

The requirement for a local housing authority to develop a tenancy strategy is made statutory under section 150 of the Localism Act. However the nature of the changes currently being introduced means that as a strategic housing authority Charnwood needs to take the opportunity to give clear guidance to all of its partners on the future shape and development of social housing within the borough regardless of legislative requirement.

We can only set that direction with the full co-operation and buy in from our partners as they will play a key role in delivering these new opportunities. Consequently this strategy has been developed through wide and extensive consultation with them.

The concept of fixed term tenancies in social housing as a replacement for the traditional “tenancy for life,” was introduced in the Comprehensive Spending Review of October 2010 along with that of affordable rents. The CSR document identified that ‘The government wants to make social housing more responsive, flexible and fair so that more people can access social housing in ways that better reflect their needs.’

At the same time the government introduced a new affordable rent product which increased the levels of rent that Registered Providers (RPs) could charge on new developments and in some circumstances when reletting existing properties. These new affordable rents could be set at up to 80% of private market rents and by bringing in additional revenue to RPs it was anticipated that additional affordable housing could be delivered to better address demand.

To facilitate these proposals changes, both legislatively and in the Tenant Services Authority regulatory standards, have been made. Allowing local authorities to offer fixed term tenancies required primary legislation and although Registered Providers have been legally able to offer assured shorthold tenancies of any length since their introduction in the Housing Act 1988 it went against regulatory guidance in most circumstances. Furthermore prior to amendments within the Localism Act if the term of the tenancy was more than three years, it would need to be made by deed and if the term was more than seven years, it would need to be registered with the Land Registry. As these requirements were deemed to increase the costs, complexity and administrative burden on local authorities and social landlords that planned to introduce fixed-term tenancies legislation was amended.¹

These changes are arguably the most the significant to affect the sector for decades.

Impact on Homelessness

The overall purpose of this strategy is to ensure that best use can be made of social housing stock within the borough however we must ensure that changes to tenure do not have an adverse impact on homelessness.

¹ Section 157 Registration of tenancies of social housing

The introduction of both fixed term tenancies and affordable rents has the potential to increase the number of people who can be assisted with affordable housing through both an increase in supply and by more effective use of existing stock.

However both initiatives need to be carefully monitored to ensure that any unexpected consequences are mitigated and they do not have an impact on levels of homelessness in the borough.

The Council's Homelessness Strategy and associated action plan will be amended to address this

Consultation

Given the scale of the changes being introduced and their likely impact on such a wide range of partners and stakeholders it has been imperative to consult extensively. A range of approaches have been used to maximise the impact of the consultation during the development of this strategy.

Initial stakeholder event- In November 2011 Charnwood, together with the six other district councils in Leicestershire, held a stakeholder event to scope initial views on both affordable rents and fixed term tenancies. 25 different stakeholder organisations and 32 housing providers were invited to attend. The event began the dialogue with partners on the implications of, and opportunities, that flexible tenure provided.

Homelessness Strategy Steering Group (HSSG) – The HSSG comprises a wide range of third sector and statutory partners with an interest and role in addressing the causes of homelessness and supporting those who find themselves homeless. The tenancy strategy has been discussed at a number of meetings and members have been provided with an opportunity to submit comments and respond to a survey on the use of fixed term tenancies and affordable rents.

Registered Provider Liaison Group –Charnwood also hosts quarterly liaison group meetings for Housing Associations with stock in the borough and affordable rents and tenancy strategies and policies have been discussed regularly since July 2011. Furthermore all private registered providers of social housing in the district were sent a copy of the draft strategy and given an opportunity to comment on the proposals as required by the Localism Act.

Survey of Housing Register Applicants – along with the other Leicestershire districts Charnwood developed an online survey for housing register applicants that sought their views on fixed term tenancies. A link to the survey was placed on the Choice Based Lettings log-in page and a direct e-mail was sent to all housing register applicants for whom we held an e-mail address.

There were 31 responses from applicants who were currently on Charnwood's housing register

Stakeholder Survey – a stakeholder survey was developed and distributed to a wide range of internal and external partners providing both a number of "prompt," questions to direct consultees' thoughts but also giving an

opportunity for responders to record any other views or concerns they might have.

Elected Member Survey – a more targeted survey was also developed to allow Charnwood’s elected members to consider how fixed term tenancies might impact on their own wards, and borough-wide generally.

Formal consultation with Registered Providers – the Localism Act introduces a requirement on local authorities to “send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and to give the private registered provider a reasonable opportunity to comment on those proposals.” This took place between 30th April and 18th May 2012.

Supply and Demand of Social Housing in Charnwood

The aim of the tenancy strategy is to ensure that social landlords are able to make best use of their existing and future stock. Therefore it is useful to have some understanding of the profile of the housing stock and the demographics of those seeking rehousing.

There are currently around 8,300 social rented homes in the borough. By far the largest landlord is the borough council with 5,846 homes but there are approximately 2,500 homes currently managed by 17 different other providers.

Table 1 shows the approximate stock numbers by landlords with at least 50 units in the borough.

Table 1

Landlord	Stock
Charnwood Borough Council	5,846
FCH	383
NCHA	361
EMHA*	360
DeMontfort Housing Society*	343
Raglan	255
LHA-ASRA*	194
Riverside*	145
Housing 21	84
Places for People	79
Derwent*	76
Hanover	58
Spirita	55
Total	8,239

Landlords marked with an * are currently engaged in the HCA’s affordable homes programme and may have an element of converting existing social tenancies to affordable rents within their business plans.

Table 2 shows the breakdown of stock by size/type where known

Table 2

Type	Number
1 bed flat/bedsit	2547
2 bed flat	799
1 bed house	5
2 bed house	653
3 bed house	2731
4 bed house	197
5+ bed house	6
1 bed bungalow	540
2 bed bungalow	53
3 bed bungalow	3
Total	7,534

Table 3 shows the number of properties relet within the borough by year. Turnover overall is around 10.5% of stock and as can be seen, supported housing (mainly for older people), makes up around 30% of these relets.

Table 3

	2008/09			2009/10			2010/11		
	Housing Association	Local Authority	Total	Housing Association	Local Authority	Total	Housing Association	Local Authority	Total
Supported	109	129	238	94	210	304	127	210	337
General Needs	253	358	611	230	389	619	274	419	693
Total	362	487	849	324	599	923	401	629	1030

Table 4 shows the number of new rented units developed by social landlords over the last four years together with the forecasted delivery for the next 2 years.

Table 4

year	total
08/09	98
09/10	54
10/11	143
11/12	128
12/13	70 (forecast)
13/14	90 (forecast)

What can be seen is that the total number of Housing Association lettings fluctuates broadly in line with their completions and forecast completions for the next two years is significantly lower than 10/11 and 11/12 and so it could be expected that new lettings will fall again.

Table 5 shows the breakdown of the Council's housing register applicants by age and gender of the main applicant

Table 5

Age Band	Female	Male	Total
17 & Under	4	1	5
18-24	281	96	377
25-29	232	107	339
30-44	519	317	836

45-59	255	222	477
60-64	71	56	127
65 & Over	267	196	463
Total	1629	995	2624

In any one year turnover can only assist around a small proportion of the people seeking housing. Also people over 60 make up only 22% of the housing register although older people's accommodation makes up closer to 30% of relets.

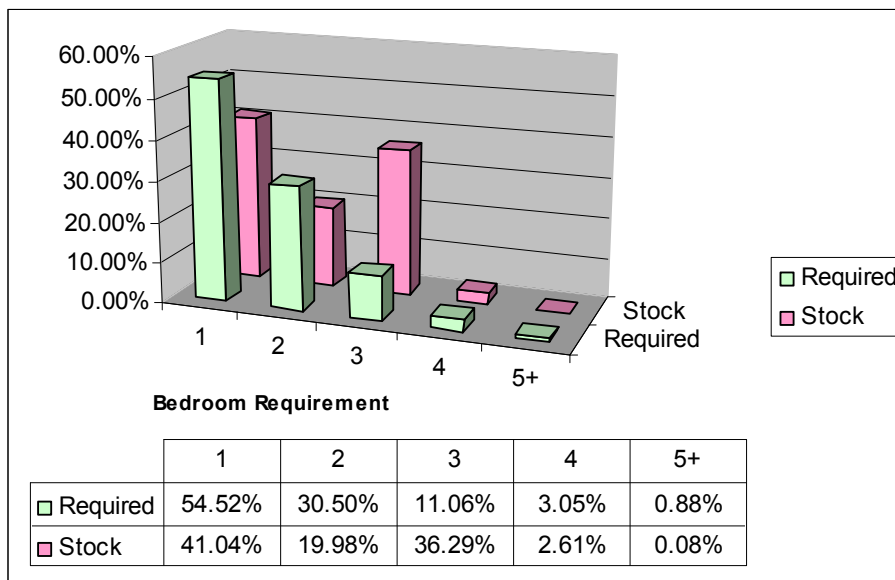
Table 6 shows a breakdown of the Council's housing register identifying the minimum number of bedrooms by HB eligibility that each household requires.

Table 6

Minimum Bedroom Required	No. on list
1	1430
2	800
3	290
4	80
5+	23

The figure one below compares the bedroom need of people on the Council's housing register as a proportion of the requirements against the size of the stock where known. This demonstrates that there is a disproportionately large amount of 3 bed accommodation compared to the profile of the housing register with all other sizes being under supplied.

Figure One



This demonstrates the challenge of both matching current demand to supply to ensure that accommodation is being used more effectively but also the need to ensure that there are meaningful options available to those who do not have their tenancy renewed as the accommodation no longer meets their households needs.

Scope of strategy

This strategy does not intend to prescribe whether or not Registered Provider landlords should introduce fixed term tenancies but provides guidance on issues for consideration should they choose to do so.

The decision as to whether or when to use fixed term tenancies remains with the landlords having regard to a range of factors including, but not limited to:

- Natural turnover of properties
- Sustainability of communities
- Tenure mix in particular locations
- The nature of accommodation in a location

This strategy allows RPs that choose to use the new flexibilities to ensure that in so doing they will be supporting the strategic priorities of the Council.

Relationship with Tenancy Policies

All Registered Providers intending to use fixed term tenancies are required to develop a tenancy policy. The tenancy policy of RPs using fixed term tenancies within Charnwood is required to have regard to the Council's Tenancy Strategy. Where RPs are in the process of adopting tenancy policies it is expected they will have regard to this strategy wherever possible before finalising their policies, and where the policies have been adopted ahead of the Council's Strategy, to interpret them having regard to this strategy and review them if necessary at the first opportunity.

To allow transparent application of tenancy policies we would expect RPs to use plain English and unambiguous terminology to make the policy explicit for applicants, tenants and advocates.

All tenancy policies that are applicable to properties within Charnwood will be published on the Council's website and paper copies will be available for inspection at the Council Offices. Therefore all RPs who have adopted a tenancy policy and have dwellings within Charnwood must make a copy available to Charnwood Borough Council electronically or provide information as to where an electronic copy can be accessed through the internet. We would also expect all RPs developing a tenancy policy to involve the Council's Housing Strategy Team before the policy is adopted to allow us to assist in ensuring the policy meets the objectives of this strategy.

The use of fixed term tenancies

When a landlord has made the decision to use fixed term tenancies (FTTs) we want to ensure that they are able to enhance, rather than reduce the social housing offer in Charnwood. To achieve this we would expect landlords to work closely with other partners to ensure that FTTs do not work to the detriment of households and this should start at the pre-tenancy stage. This section identifies the activities and approaches we would expect landlords to take when using FTTs.

Information at start of tenancy

It is expected to be clearly stated from advert onwards that a property is to be let as a fixed term tenancy. At this stage information should be clearly accessible, in plain language and allow potential tenants to clearly understand the circumstances whereby their tenancy may or may not be renewed. Where a potential tenant may have difficulty understanding such information sufficient measures should be in place to ensure that they understand the terms of the tenancy. Where a landlord has retained some discretion as to the length of tenancy to be awarded, such as where there are criteria based on ages within the household, we would expect an applicant at this stage to be able to identify what length of tenancy they are likely to be offered.

Length of tenancy

Where an RP has made the decision to use FTTs the expectation is they would normally be of at least 5 years. Where a longer term is more suited to the nature of the household consideration will be given to this (an example might be a family with small children who in all likelihood are going to require the property until they all reach school leaving age).

To allow for certainty in planning for old age, consideration is to be given to granting lifetime tenancies for older people in specialised older person's accommodation

Exceptional Circumstances

Guidance states that 2 year tenancies should only be granted in exceptional circumstances and this view is supported. We recognise however there may be limited situations where these might be appropriate.

Examples may be:-

- specialist rehabilitation units whereby a tenant has temporary needs for adaptations but it is expected that the need will lessen over time.
- as a tool to increase the number of young people to engage in services in a targeted area. For example the use of 2 year tenancies linking to access to support and training could be used to reduce the number of people not in employment, education or training (NEETs) whereby the presumption on renewal is conditional on the young person remaining in education, employment or training. Blanket policies would not be expected to be applied such as to grant 2 year tenancies to all young people, and such an approach would only be appropriate where specialist services were easily accessible by that client group.

Where two year tenancies are being considered within the borough we would expect RPs to discuss these schemes with The Strategic Housing Team individually.

Renewing Fixed Term Tenancies

We would expect landlords to take the view that normally a fixed term tenancy **will** be renewed unless the property is demonstrably no longer required by the tenant and their household.

If a landlord is intending not to renew a tenancy because it is felt that the current tenant has sufficient resources to secure alternative accommodation through the market we would expect a full and robust financial appraisal to be carried out with the tenant to satisfy that decision. Where possible and where the tenant wishes to remain in their existing accommodation consideration should be given to making that accommodation available on a market basis with the additional income being invested on additional affordable housing within the borough.

To ensure that the introduction of fixed term tenancies does not have a detrimental impact on sustainable communities we would expect RPs to give consideration to the availability of alternative accommodation in the locality when deciding whether to renew a tenancy of a tenant with a strong connection to a particular area, whether that is through significant support networks or a high level of community involvement.

We would not expect compliance with tenancy conditions to be a significant consideration in the decision as to whether or not to renew a fixed term tenancy. There are other mechanisms available to deal with a tenancy breach and we consider these a more proportionate method to do so.

We would expect serious consideration to be given to extending the tenancy of any families where children are in critical exam periods, notably years 10 to 13 particularly where to move would cause significant disruption in relation to accessing existing schools, even where under other circumstances the tenancy policy might not normally support continuation.

Where a property has been significantly adapted for a member of the household who is still resident at the property the suitability of the adaptations should override the suitability of the property in relation to the number of bedrooms where a household might subsequently be deemed to be under-occupying.

Where a tenancy is not to be renewed a referral should also be made to the Council through the established pre-eviction protocol mechanism, which will be updated to accommodate fixed term tenancies.

Support at the end of the tenancy

Where a tenancy is not going to be renewed we would expect the RP to work closely with the tenant to explore deliverable alternative housing options and to engage with other partners as appropriate in a timely way. We would expect landlords to be mindful of the likely impact on the Council's homelessness duties when making decisions as to how to proceed when a tenancy is not renewed and has come to an end, to minimise the likelihood of families becoming literally roofless.

We would also expect RPs to work closely with the Bridge and other housing advice agencies within the borough to ensure a full range of housing options are pursued whilst being mindful of the capacity of other organisations.

Appeals over decisions not to renew

The RP's appeals process for decisions not to renew a tenancy should be clear and transparent and should be framed to allow tenants to make an informed decision as to whether to submit an appeal. Furthermore we would

expect the appeals process to be framed so as to allow a tenant to seek independent advice, and where necessary, representation. We would also expect the appeals process to be proportionate so that both sides receive a fair hearing. For example where a household is particularly vulnerable we would expect the RP to support them to access advocacy services when considering whether to appeal.

Where a family's circumstances change during the notice period and the property becomes suitable for their needs again we would expect to see a mechanism whereby a notice can be withdrawn.

Affordable Rented Properties

"Affordable" Rent is designed to:

- maximise the delivery of new social housing by making the best possible use of constrained public subsidy and the existing social housing stock
- provide an offer which is more diverse for the range of people accessing social housing, providing alternatives to traditional social rent

Affordable Rent falls within the definition of social housing in Section 68 of the Housing and Regeneration Act 2008 (and, in particular, the definition of low cost rental accommodation in Section 69 of that Act). Affordable Rent properties will therefore be subject to regulation by the Tenant Services Authority - and its Homes and Communities Agency successor - where they are provided by a Registered Provider.

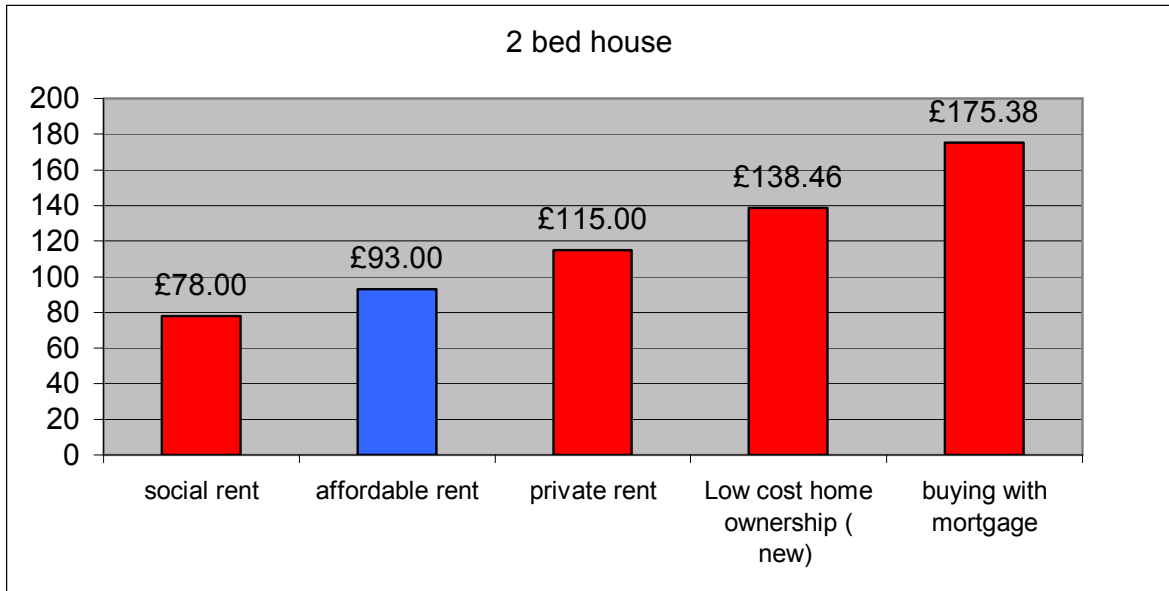
Affordable Rent will offer housing associations the flexibility to convert vacant social rent properties to Affordable Rent and re-let, at a rent level of up to 80 per cent of market rent. Housing associations will be able to convert vacant properties to Affordable Rent where they have reached an investment agreement with the Home and Communities Agency about how additional rental income will be reinvested in the supply of new affordable housing. "

Written statement by Minister for Housing and Local Government 9/12/2010

Although Affordable Rents (ARs) are not explicitly part of the statutory remit of the tenancy strategy many affordable rented properties will be let on fixed tenancies and they are a substantial element of the new offer of "public" housing. Therefore, in setting out a framework for this new offer it is beneficial to consider both within this strategy. Whilst almost all new rented housing developed through the National Affordable Housing Programme (NAHP) will be developed as affordable rents, the extent and nature of conversions could have significant impacts on the range of social housing available within the borough.

Affordable Rents are designed to be more expensive than traditional social rents but still below market rent levels. Figure 2 below indicates the comparable weekly costs of a 2 bed house in different tenures across Charnwood.

Figure two



Source: Establishing the need for provision of 'Affordable Rent' housing in Charnwood. B Line (2012)

Table 7 indicates the comparable costs between current social rents and expected affordable rents.

Table 7

	average RP gross	equivalent 80% Affordable Rent	£s difference	% difference
	social rents			
Charnwood				
One bedroom	£70.91	£78.83	£7.92	11%
Two bedrooms	£79.61	£101.40	£21.79	27%
Three bedrooms	£85.69	£108.09	£22.40	26%
Four bedrooms	£96.34	£149.78	£53.44	55%

Source: Establishing the need for provision of 'Affordable Rent' housing in Charnwood. B Line (2012)

As can be seen the potential differential between social and affordable rents increases as property sizes get larger.

Development of Affordable Rent properties

Whilst affordable rented dwellings will be developed on most HCA funded schemes we would expect sites which are not being developed through grant funding to continue to produce a range of accommodation types. Where the development is part of a section 106 agreement we would expect the site to deliver units in accordance with the Council's current planning policy. Where the site is being developed with other subsidies (such as through the gifting of

Council owned land) we would seek to develop a balanced scheme having regard to demand and viability.

Setting Affordable Rents

Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable). They must also not be in excess of Local Housing Allowance rates.

At present it looks like all likely affordable rents will fall within the LHA cap in Charnwood although this situation will need to be monitored as it may change over the course of this strategy, particularly in the case of larger properties in high value areas.

When setting affordable rents we would expect RPs to have regard to general affordability and the differential between social rents and affordable rents. This is to ensure not only that affordable rents remain affordable for those on low incomes, but also that significant differentials in demand between social rent and affordable rent do not emerge that would undermine their ability to assist in meeting housing need.

Eligibility for affordable rented accommodation

The presumption is that affordable rented and socially rented properties will be advertised alongside one another within the sub regional Choice Based Lettings scheme.

We would not expect additional qualifying criteria to be attached to affordable rented properties but adverts will have to contain sufficient information to allow applicants to make informed choices based on their individual circumstances and available properties.

At the same time we acknowledge that ongoing and proposed changes to welfare benefits may have impacts on the suitability and affordability of accommodation in the future and we will continue to review eligibility for accommodation going forward.

Conversions of existing stock to Affordable Rent

As identified above, whilst the majority of affordable rented homes will be initially on new developments as part of their submissions to the HCA, RPs agreed to convert a number of their existing units to affordable rents.

As is demonstrated in table 7 the proportion of extra rent that can be charged under affordable rents increases along with property size. As a result, and to maximise income there may be a tendency to concentrate rent conversions in larger property types. We would expect conversions as much as possible to be proportionate across relets, both in terms of unit sizes and types, as well as locations to ensure that a range of tenure and rent levels is available to all household types on the register.

At the same time we acknowledge that for apartments in particular there is little incentive in converting to affordable rents once service charges are accounted for.

Conversion of homes on Section 106 sites

We would not expect conversions to take place on units developed as affordable rent as part of a section 106 agreement. Where an RP is seeking to do this they should contact the Council's Development and Enabling Officer for advice.

Fuel Poverty

The Council is committed to the reduction of fuel poverty. Therefore where existing properties are due to be converted to affordable rent we would expect RPs to prioritise these wherever possible for additional energy efficiency measures as part of the process of re-letting so as to mitigate, through lower energy bills, the additional consequential rental costs associated with the property.

Mutual Exchanges

The introduction of affordable rents and fixed term tenancies has implications for tenants who wish to exercise their right to mutual exchange. Although there are some protections for existing tenants in certain circumstances these are not universal.

We recognise that for many tenants mutual exchanges are an important option available to them to improve their housing situation and social mobility. As a result we would not want changes to the tenure legislation to impact on the effectiveness of this option. Therefore we would encourage landlords to consider granting a degree of security equal to that which is being given up (even where they are not obliged to do so) to ensure that exchanges continue to be an effective tool.

Monitoring and Review

Monitoring the impact of the tenancy strategy and the introduction of fixed term tenancies and affordable rents will become actions within the Council's Homelessness Strategy Action Plan and it is proposed that the established Homelessness Strategy steering group will continue to be the forum for ensuring the Plan is delivered.

This strategy will be reviewed every five years unless evidence from the strategy steering group suggests it needs to take place sooner.

Appendix One: Tenancy Types available to Councils and Housing Associations

Introductory Tenancy (Council) – this is a starter tenancy usually lasting a year. If the tenant complies with the terms of the tenancy it will automatically become a secure tenancy after a year. During an introductory tenancy a tenant will have less rights and can be evicted more easily. The Council can choose to extend the introductory period for a further six months if there have been problems with the tenant.

Secure Tenant (Council) – Secure tenants have lots of rights to their property. They have the right to take in lodgers, the right to buy and the right to mutual exchange.

Demoted Tenancy (Council) – Demoted tenancies are similar to introductory tenancies. Demoted tenancies occur where a secure tenant has been behaving anti-socially or engaged in criminal activity. The Council has to go to court to get the tenancy demoted. A demoted tenancy usually lasts a year

Non-secure Tenancy (Council) – the Council grants non-secure tenancies to households who have applied as homeless whilst it is deciding what duties it holds to that household and if there is a duty to secure accommodation for them until permanent accommodation is found. Non-secure tenants have very few rights.

Flexible Tenancy (Council) – since 1st April 2012 Councils have been able to use flexibly tenancies. These are expected to usually last for 5 years although the Council could chose to make them longer. During the term of the tenancy the rights are similar to those of a secure tenant.

Assured Shorthold Tenancy (Housing Association) – there are three situations where Housing Associations may use Assured Shorthold Tenancies.

1. in the same way as an introductory tenancy is used by the Council and if after a year the tenant has complied with their tenancy agreement they will usually be given a full assured tenancy.
2. where the accommodation is not intended to be permanent such as in supported accommodation for young people. In such schemes that agreement will usually start off as a six month fixed term and then become a rolling monthly tenancy. An Assured Shorthold Tenancy is the same type of tenancy as a private landlord would normally grant and has limited rights.
3. Housing Associations will also now used Assured Shorthold Tenancies for their new fixed term tenancies although the fixed term will usually be for at least five years rather than the current default of six months.

Assured Tenancy (Housing Association) – An assured tenancy has a lot more rights than an Assured Shorthold Tenancy and providing the tenant complies with the terms of their tenancy the tenancy cannot normally be ended.

Secure Tenancy (Housing Association) – People who have been housing association tenants since before 15th January 1989 and are either living in the same property or have continually lived in a property owned by the same

housing association may be secure tenants. These tenants have the same rights as secure council tenants although the rent is set under a different process.

Demoted Tenancy (Housing Association) – Demoted tenants in housing association properties gain the same rights as an Assured Shorthold Tenant.